

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TEXAS  
SHERMAN DIVISION

INNOVATION VENTURES, LLC d/b/a	§	
LIVING ESSENTIALS,	§	
Plaintiff,	§	
	§	CIVIL ACTION NO. 4:08-CV-232
v.	§	
	§	JURY
ULTIMATE LIFESTYLES, LLC, ET AL	§	

**AGREED MOTION FOR  
PARTIAL DISMISSAL OF CERTAIN TRADEMARK CLAIMS**

Pursuant to Fed. R. Civ. P. 41(a), Plaintiff Innovation Ventures, LLC d/b/a Living Essentials (“Living Essentials”) and Defendants Ultimate Lifestyles, LLC, Custom Nutrition Laboratories, LLC, Alan Jones and Mike Norwood (collectively “Defendants”) respectfully file this Agreed Motion for Partial Dismissal of Certain Trademark Claims and would show this Court as follows:

The parties are in the process of documenting a settlement of this matter. One of the terms of the settlement is resolution of Plaintiff’s Unopposed Motion for Partial Dismissal of Certain Trademark Claims, which motion seeks entry of an order dismissing certain trademark claims called for in a previous settlement agreement in a separate litigation between Living Essentials and Body Dynamics, Inc. The parties now fully agree on the terms of this order and, once entered by the court, the parties anticipate promptly filing a separate order/judgment resolving all remaining issues in this case.

The parties therefore request that this Court grant leave to dismiss from this action

with prejudice only those portions of counts in Living Essentials' Second Amended Complaint against Custom Nutrition Laboratories, LLC ("CNL") that assert common law trademark and statutory trademark claims for product manufactured by CNL for Body Dynamics, Inc. d/b/a/ BDI Marketing ("BDI"). Living Essentials intends that all its other claims, counts, and defenses against CNL remain, including but not limited to all non-trademark claims, counts, and defenses involving BDI.

By: \_\_\_\_/s/ Howard L. Close\_\_\_\_

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**CERTIFICATE OF CONFERENCE**

Counsel for Plaintiff has conferred with counsel for Defendants regarding this agreed motion to dismiss. Counsel for Defendants have indicated that they are in agreement with the filing of this motion to dismiss certain trademark claims.

\_\_\_\_\_/s/ Howard L. Close  
Howard Close

**CERTIFICATE OF SERVICE**

I hereby certify that on July 31, 2009, I filed this document electronically and served a copy on the following counsel of record for Defendant Ultimate Lifestyle and CNL as follows:

***Via electronic ECF notification***

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/s/ Howard L. Close

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